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**Project "Cutting edge improvements in the public
procurement system in Moldova through
inclusiveness, creativity and
law-abiding practices"**



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The role of public procurement. Public procurement in figures. The principles.



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Public procurement - procurement of goods, execution of works or provision of services for the needs of one or more contracting authorities





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DATA AND STATISTICS ON CORRUPTION IN PUBLIC PROCUREMENT

- ☐ **Public contracts are strongly exposed to the risks of corruption.**
- ☐ **About USD 9.5 trillion (or 15% of global GDP) is moving annually through public contracts between the governments and the private sector.**
- ☐ **57% of the external cases of bribery investigated by the OECD Anti-Bribery Convention involved bribes for obtaining public contracts.**
- ☐ **According to a Eurobarometer survey of 2013 more than 30% of the companies that participated in public procurement in EU have said that namely “corruption” prevented them from winning a procurement contract.**
- ☐ **According to the UN Office on Drugs and Crime the costs of corruption and fraud amount to 20-25% of the procurement budget.**



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PUBLIC PROCUREMENT IN THE REPUBLIC OF MOLDOVA

- ☐ **Value of public procurement contracts in 2016 -
MDL 7.5 billion (about 5.6% of GDP)**
- ☐ **2014 – 10.8 billion (9.7%)**
- ☐ **In different European states – 15% - 30% of GDP**



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COSTS OF CORRUPTION IN PUBLIC PROCUREMENT IN THE REPUBLIC OF MOLDOVA

During 2012-2015 NAC and the Court of Accounts identified and brought to responsibility 42 cases of corruption in public procurement that involved:

- ❖ central public authorities – 16 cases,**
- ❖ local public authorities– 14 cases,**
- ❖ enterprises, including 3 public enterprises – 6 cases,**
- ❖ citizens – 2 cases ,**
- ❖ one commercial bank - 1 case,**
- ❖ others 3 are not specified.**

Corruption in these cases has manifested itself by abuse of power or abuse of office; excess of authority or official powers, neglect of duty; manufacture, possession, sale or use of false official documents and letterheads, stamps or seals, as well as by passive corruption.



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The role of public procurement:

Efficient use of public money
so an optimal relationship
between quality and price
would exist

Satisfying the public interest,
therefore developing and
improving the community's
living environment

Fostering economic growth

Is an important element to
boost the market



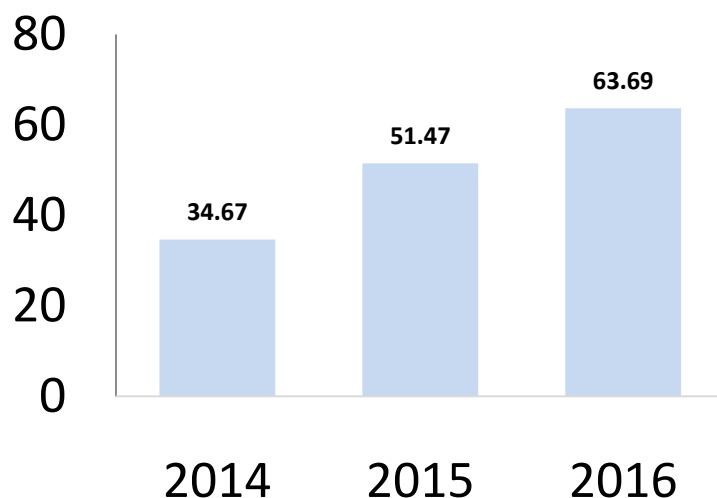
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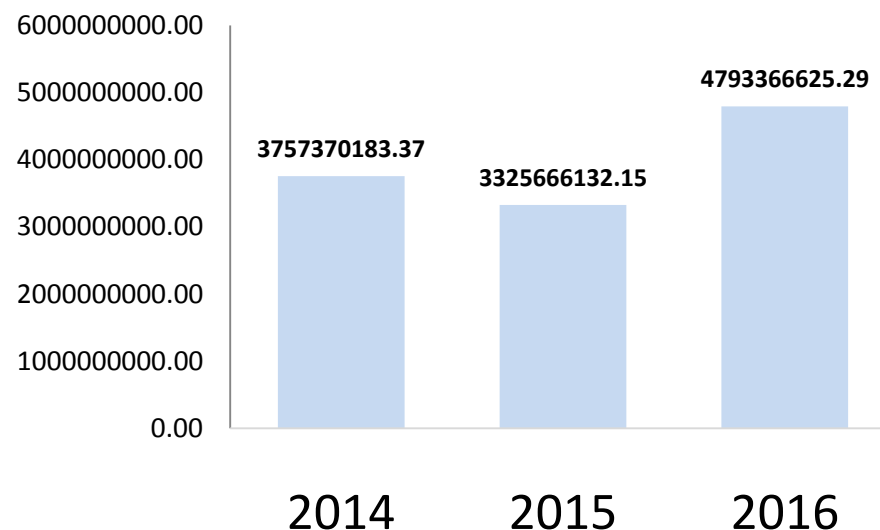
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Proportion of procedures carried out in SIA RSAP in the total amount of contracts (%)



Amount of contracts of procedures carried out in SIA RSAP (MDL)



Notes:

Proportion of procedures carried out in SIA RSAP in the total amount of contracts in the first half of 2017 - 62,43%

Amount of contracts of procedures carried out in SIA RSAP (MDL) – 2 314 725 665,32 MDL

Source:

Reports on the work of the Public Procurement Agency <http://tender.gov.md/ro/documente/rapoarte-de-activitate> 7



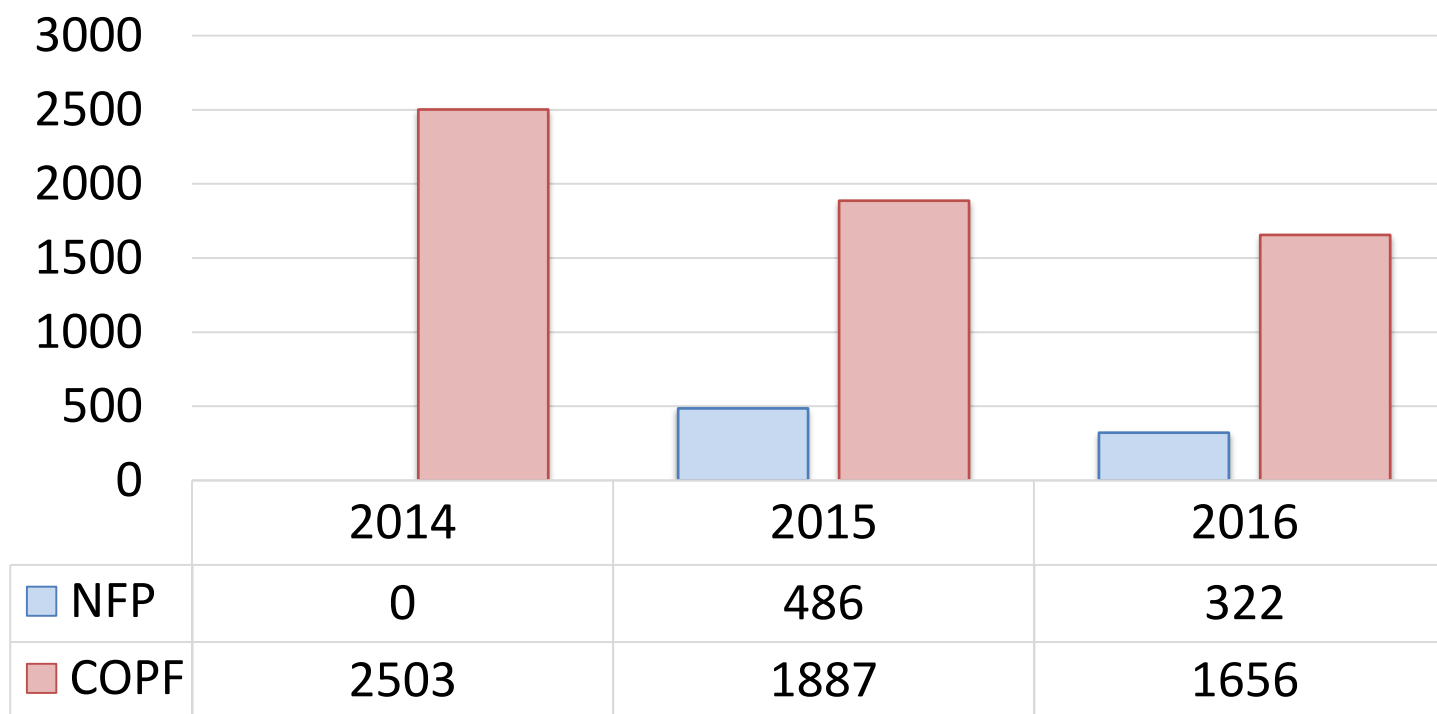
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Dynamics of the number of procedures without publication



Note: Number of procedures without publication in the first half of 2017 is: NFP – 264; COPF - 875

*Source: Reports on the work of the Public Procurement Agency <http://tender.gov.md/ro/documente/rapoarte-de-activitate>
Laws on State Budget*



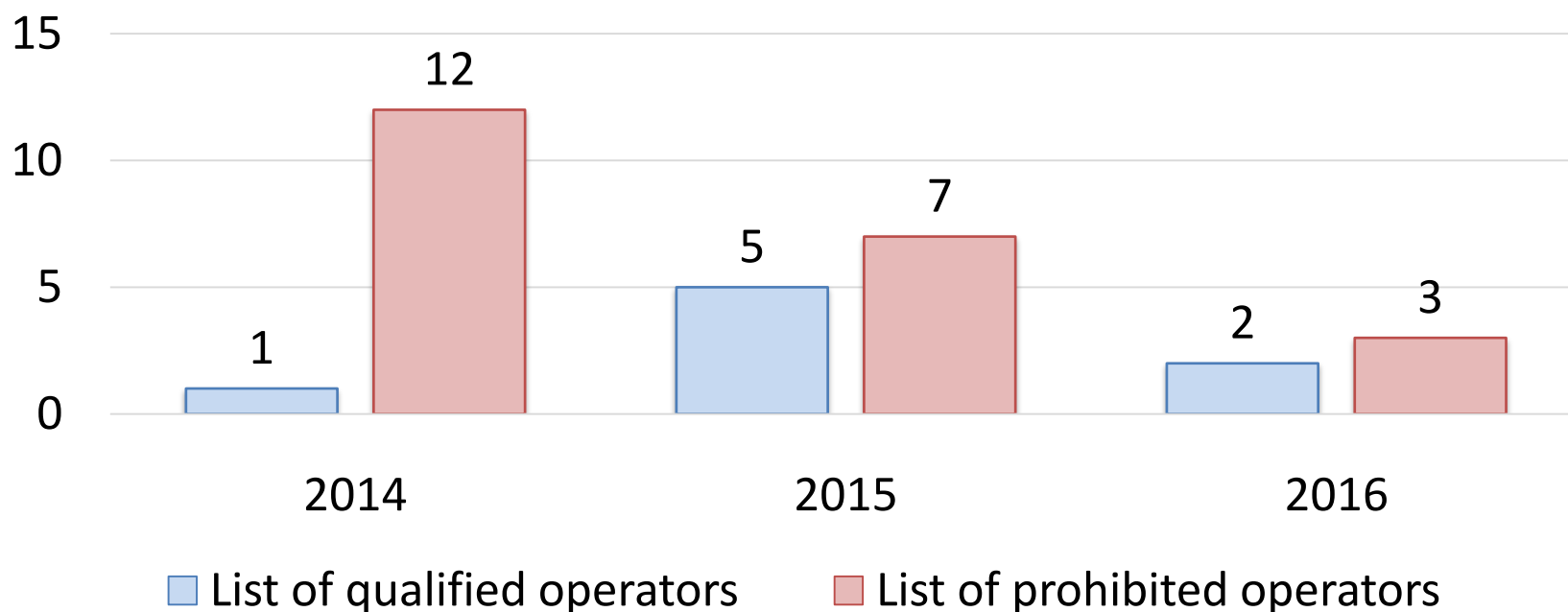
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Dynamics of the number of decisions on registration of economic operators in the List of qualified operators and in the List of prohibited economic operators



*Note: Number of decisions on registration of economic operators in the first half of 2017 is:
in the List of qualified operators – 15 and in the List of prohibited economic operators – 6*

*Source: Reports on the work of the Public Procurement Agency <http://tender.gov.md/ro/documente/rapoarte-de-activitate>
Laws on State Budget*



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Regulatory principles for relations on public procurement (*art.6*)

- efficient use of public money and minimizing the risks for contracting authorities
- transparency of public procurement
- ensuring competition and combating unfair competition in public procurement
- protecting the environment and promoting sustainable development through public procurement
- maintaining public order, good morals and public safety, protecting health, protecting the lives of people, flora and fauna



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Regulatory principles for relations on public procurement (*art.6*)

- liberalization and expansion of international trade
- free movement of goods, freedom of establishment and freedom of provision of services
- equal treatment, impartiality, non-discrimination regarding all bidders and economic operators
- proportionality
- mutual recognition
- assumption of responsibility in public procurement procedures



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Efficient use of public finances and minimizing the risks for contracting authorities is the application of competitive award procedures and the use of criteria reflecting the economic advantages of the bids in order to obtain the optimal relationship between quality and price.

Resulting effects:

- obtaining the best value for public funds
- monitoring the costs of the public procurement process



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Transparency of public procurement - making available to the public all information concerning the application of the award procedure,

Resulting effects:

- the possibility to anticipate the sequence of activities during a procedure;
- ensuring the “visibility” of rules, opportunities, processes, output data records and results;
- the clarity of the documents developed during the procurement process;
- the understanding by the potential candidates / bidders of the objective needs of the contracting authority and how these needs are reflected within the requirements of the standard documentation.



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Ensuring competition and combating unfair competition in the field of public procurement means ensuring the conditions for manifestation of the real competition on the market regardless of the form of organization, nationality or ownership of the future contractor so that any economic operator:

can participate in the award procedure;

has the chance to become a contractor



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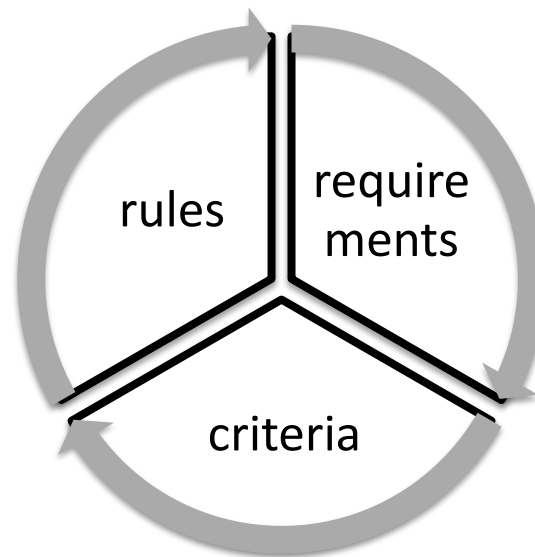
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**Equal treatment, impartiality, non-discrimination regarding all bidders and
economic operators**

- establishment and application at any time during the award procedure of:



NOTE: Must be identical for all economic operators so they could have equal opportunities to become contractors.



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To comply with the principle of **equal treatment, impartiality, non-discrimination regarding all bidders and economic operators** the contracting authority must ensure that:

- all the economic operators are provided with the same information, both through standard documentation and further clarifications on its content;
- the minutes of the tender opening session are communicated to all participants in the procedure whether or not they were present at the opening session;
- the qualification/selection criteria are applied in the same way to all participants;
- the established assessment factors make it possible to compare and assess the bids objectively.



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The principle of proportionality implies the correlation between :

- the needs of the contracting authority;
- the subject of the public procurement contract;
- the requirements to be met by the bidders to meet the needs of the contracting authority.

The effect of this principle lies in the fact that it is ensured that a correct award procedure is defined and carried out with regard to bidders.



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Examples of violation of this principle

- demanding for qualification of annual turnover in excessive amount in relation to the complexity and estimated value of the contract;
- requesting an excessive number of documents or information to demonstrate technical and/or professional capacity;
- requesting the availability of human resources or equipment irrelevant for the good execution of the public procurement contract or in excessive amount;
- the condition of presentation in the original or authenticated form of a large number of documents, although the certified copy would be sufficient;
- establishment of deadlines for the submission of tender proposals insufficient for their development given the complexity of the object of the contract;
- description of technical specifications peculiar to products that exceed the needs of the contracting authority;
- assigning a very high score to an assessment factor against to the importance of the factor in fulfilling the contract;



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Assumption of responsibility means a clear determination of the tasks and responsibilities of the persons involved in the public procurement process, and ensuring of:

- professionalism;
- impartiality;
- independence

of the decisions taken during this process.



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**Maintaining public order, good morals and public safety, protecting
health, protecting the lives of people, flora and fauna**

- The security of the state and society, as well as the safety of the person are fundamental social values, and on their existence and their unhindered achievement depends the normal functioning of the state in accomplishing its tasks and functions.
- The rigorous regulation of social relations, the laying of the whole life on the sound foundations of lawfulness, legal rules and discipline is a natural requirement.
- Conservation and protection of biodiversity – In order to protect this valuable natural capital and to ensure favorable conditions for conservation of natural habitats it is important to implement measures for the conservation and protection of biodiversity.



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The liberalization and expansion of international trade and the free movement of goods, including through mutual recognition mean freedom of establishment and provision of services, mutual recognition and acceptance of:

- products, services, works that are legally offered on the market;
- diplomas, certificates, other documents issued by competent authorities of other states;
- technical specifications equivalent to those requested at national level.